



# U.S. DEPARTMENT of STATE

## Vanuatu

### Country Reports on Human Rights Practices - [2004](#)

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Vanuatu is a parliamentary democracy. The Constitution provides for parliamentary elections based on universal suffrage every 4 years, through which citizens may change their government freely. The 52 member Parliament elects the Prime Minister as the Head of Government. An electoral college composed of the Members of Parliament (M.P.s) and the chairmen of the country's six provincial government councils elects the President as the Head of State. The latter's powers are largely ceremonial, except when appointing judges or acting on the advice of the Council of Ministers, who are appointed by the Prime Minister. There also is a Council of Chiefs that provides recommendations on matters relating to custom and traditional practices. Political legitimacy is based on majority rule. Parliamentary majorities have been unstable. The most recent elections, held in July, were considered generally free and fair. After much parliamentary maneuvering, a coalition government was formed with Serge Vohor of the Union of Moderate Parties (UMP) as Prime Minister; however, on December 11, Parliament ousted Vohor in a vote of no confidence and elected Ham Lini to replace him. The judiciary is generally independent of executive interference, although there were tensions between the two branches during the year.

The Police Commissioner commands the country's small police force, including its paramilitary wing, the Vanuatu Mobile Force (VMF). The country has no military force; the VMF has both domestic and external security responsibilities. The civilian authorities generally maintained effective control of the police; however, police officials on occasion have acted peremptorily or at the direction of senior politicians attempting to settle scores or intimidate opponents. There were reports that a few members of the police committed human rights abuses.

The economy is market based, with tourism the biggest source of foreign exchange. The population was approximately 213,000, more than 80 percent of whom were engaged in subsistence farming and fishing. The service sector, composed primarily of government, tourism, and an offshore financial sector, was the largest component of the formal economy. Real gross domestic product grew by 1.6 percent in 2003. Wages and benefits generally kept pace with inflation. Per capita income was estimated at \$1,180 in 2003, a decrease since independence in 1980 when adjusted for inflation. In February, Cyclone Ivy struck the country and extensively damaged infrastructure, housing, crops, and water supplies.

The Government generally respected the human rights of its citizens; however, there were problems in some areas, including poor prison conditions, arrests without warrants, an extremely slow judicial process, restrictions on access to government-owned radio and television stations by the political opposition, and violence and discrimination against women.

## RESPECT FOR HUMAN RIGHTS

### Section 1 Respect for the Integrity of the Person, Including Freedom From:

#### a. Arbitrary or Unlawful Deprivation of Life

There were no reports of the arbitrary or unlawful deprivation of life committed by the Government or its agents.

#### b. Disappearance

There were no reports of politically motivated disappearances.

#### c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and there were no reports that government officials employed torture. There were a few reports of abuses by police.

Prison conditions were poor at both the small, dilapidated central prison in Port Vila and the prison in Luganville, where conditions generally were regarded as worse than in Port Vila. Security at both facilities also was poor. Inmates were treated

humanely to the extent allowed by the meager resources of the prison system.

Female prisoners were held in a separate facility. Pretrial detainees usually were held in the police lockup rather than the prison. During the year, with foreign government assistance, the holding cells at the Port Vila police station were enlarged, and prisoners were provided access to modern sanitary facilities.

The Government permits prison visits by independent human rights observers.

#### d. Arbitrary Arrest or Detention

The Constitution prohibits arbitrary arrest and detention, and the Government generally observed these provisions.

The Commissioner of Police heads the police force of approximately 600 officers, including approximately 200 members of the VMF, a paramilitary unit with responsibility for responding to both internal and external security threats or other situations requiring the use of force. The Police Services Commission administers the employment of all police officers and selects the commissioner. The police generally were considered effective but were hampered by a lack of resources and by internal rivalries. Corruption and impunity were not major problems; however, there were some instances of corruption, and there have been some instances in which police have acted without proper authorization at the behest of politicians.

In September, the Chairman of the Police Services Commission was removed and the Police Commissioner and Mobile Force Commander were suspended after the police reportedly attempted to arrest the Prime Minister in connection with a contempt of court charge filed by the Public Prosecutor after the Prime Minister made disparaging remarks in Parliament about the Supreme Court's Chief Justice. The Supreme Court subsequently dismissed the charge. At year's end, appeals of the suspensions were pending in the courts.

The constitutional provision that suspects must be informed of the charges against them generally was observed in practice. A warrant issued by a court is required for an arrest; however, police made a small number of arrests without warrants during the year, and the Government deported a foreign national wanted by French authorities despite a court order barring his deportation.

A system of bail operated effectively; however, some persons not granted bail spent lengthy periods in pretrial detention due to judicial inefficiency (see Section 1.e.). Detainees were allowed prompt access to counsel.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, and the Government generally respected this provision in practice; however, there were tensions between the executive and the judiciary during the year regarding the case of a foreign national deported by the Government despite a court order barring such action and regarding criticism by Prime Minister Vohor of the Supreme Court's Chief Justice (see Section 1.d.).

Magistrates' courts deal with most routine legal matters. There also are island courts at the local level, with limited jurisdiction in civil and criminal matters. The Supreme Court, an intermediate-level court, has unlimited jurisdiction over criminal and civil matters and considers appeals from the magistrates' courts. The President appoints the Chief Justice of the Supreme Court after consultation with the Prime Minister and the leader of the opposition; the three other justices are appointed by the President on the advice of the Judicial Services Commission. The Appeals Court is the highest appellate court. It comprises at least three judges, including at least two judges from the Supreme Court, and often includes senior judges from other common-law countries in the region. Judges cannot be removed without cause.

The Constitution provides for the right to a fair trial, and an independent judiciary generally enforced this right. However, the judiciary was relatively weak and inefficient, and some defendants spent extended periods in pretrial detention as a result. The judicial system is derived from British common law. The courts uphold constitutional provisions for a fair public trial, a presumption of innocence until guilt is proven, a prohibition against double jeopardy, a right of judicial determination of the validity of arrest or detention, and a right of appeal to a higher court.

Judges, prosecutors, and police complained about large case backlogs due to a lack of resources and limited numbers of qualified judges and prosecutors. Years can pass before a case is brought to trial.

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution or the law prohibits such actions, and the Government generally respected these prohibitions in practice.

Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however, during the year, Prime Minister Vohor stated that opposition parliamentarians could not appear on the government-owned television or radio stations without his prior permission. He granted no such permission during the year.

The Government controlled the country's one AM and one FM radio station and a limited service television station that broadcast only to the capital of Port Vila and the second-largest city, Luganville. The television station provided daily English and French news service. Access to international news and information also was available through subscription satellite television service from two private providers. There was one independent daily newspaper and two privately owned semiweekly newspapers. During the year, most international correspondents, government-owned media, and the independent press reported criticisms of political leaders freely and apparently without hindrance. However, at times, some individual politicians and their supporters have attempted to intimidate the media, although with no apparent effect.

The Government did not limit access to the Internet; the Internet and e-mail were increasingly used by business and commercial leaders in Port Vila and other major towns, but both computers and Internet access were out of reach for most citizens in the subsistence economy.

The Government did not restrict academic freedom.

#### b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly and association, and the Government generally respected these rights in practice.

#### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. The Government provided some financial assistance for the construction of churches affiliated with member denominations of the Vanuatu Christian Council, provided grants to church operated schools, and paid teachers' salaries at church operated schools in existence since the country's independence in 1980. These benefits were not available to non Christian religious organizations. Government schools also scheduled weekly religious education classes conducted by representatives of Council churches. Students whose parents did not wish them to attend the classes were excused. Non Christian religions were not permitted to give religious instruction in public schools.

For a more detailed discussion, see the [2004 International Religious Freedom Report](#).

#### d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respected them in practice.

The Constitution does not address forced exile, but the Government did not employ it.

The law does not provide for the granting of asylum or refugee status to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees or its 1967 Protocol, and the Government has not established a system for providing protection to refugees. There were no refugee or asylum cases reported during the year. The Government has no association with the office of the U.N. High Commissioner for Refugees.

#### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections held on the basis of universal suffrage. Parliamentary elections are held every 4 years. The 52-member Parliament elects the Prime Minister as the Head of Government. The Electoral College, composed of M.P.s and the chairmen of the country's six provincial government councils, elects the President for a 5 year term. The President's powers are largely ceremonial except when appointing judges and acting on the advice of the Council of Ministers; however, the President has the power to pardon or reduce the sentence of persons convicted of criminal offenses. This power has been used in the past to absolve political figures of criminal convictions.

Parliamentary majorities have been unstable, with frequent motions for votes of no confidence in the government. In October, Parliament passed proposed amendments to the Constitution that, among other things, would bar no confidence motions in the first and last years of a parliament's 4-year term. The amendments would become effective only if approved in a national referendum, which had not been scheduled as of year's end.

National parliamentary elections held in July were considered generally free and fair. Additional police were dispatched to the

island of Tanna after alleged supporters of two unsuccessful candidates intercepted police escorting ballot boxes to the capital after the election and reportedly burned several of the boxes. The Government charged 10 persons for their alleged involvement in the incident, including the 2 candidates. No further action was taken in the case by year's end. Following the election, Prime Minister Serge Vohor of the UMP assembled a coalition parliamentary majority and formed the Government. However, on December 11, amid allegations of corrupt dealings, Vohor lost a motion of no confidence in Parliament; Ham Lini of the National United Party was elected to replace him as Prime Minister.

Government corruption was a problem. In May, then-President Alfred Masing Nalo, who had been elected in April, was removed from office after it was revealed that he had a criminal record, including a conviction for receiving property dishonestly. In August, lawyer Kalkot Matas Kelekele was elected President to replace him. Prime Minister Vohor appointed as his Foreign Minister a former prime minister who was convicted of forgery in 2002 and sentenced to 3 years' imprisonment; he was released several months later, after the then-President pardoned him on medical grounds, and was reelected to Parliament. The Public Service Act and related guidelines provide for the appointment of public servants on the basis of merit; however, in practice, political interference at times has hampered the effective operation of the civil service.

No law provides for public access to government information. In practice, governmental response to requests for information from the media has been mixed.

Traditional attitudes regarding male dominance and customary familial roles hampered women's participation in economic and political life. There were 2 women in the 52-member Parliament. There was one woman in the Cabinet, appointed in December.

There were at least two members of minorities in the Parliament, one of whom was in the Cabinet.

#### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

There are no restrictions on the formation of human rights organizations. Some nongovernmental organizations (NGOs), such as the National Council of Women and the Family Health Association, included human rights education as part of their programs. A number of domestic and international human rights groups operated without government restriction, investigating and publishing their findings on human rights cases. Government officials tolerated their views.

A government ombudsman is appointed to a 5-year term by the President in consultation with other political leaders. The 1998 Ombudsman's Act, passed in the wake of parliamentary anger over the previous Ombudsman's vigorous investigations of official corruption, requires that the Public Service Commission, not the Ombudsman, appoint members of the Ombudsman's staff and authorizes the presence of legal counsel during interviews with the Ombudsman.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Constitution prohibits discrimination on the basis of race, place of origin, religious or traditional beliefs, political opinions, language, or sex; however, women remained victims of discrimination in the tradition-based society.

##### Women

Violence against women, particularly wife beating, was common, although no accurate statistics exist. There are no specific laws against domestic violence; courts occasionally prosecuted offenders using common law assault as a basis for prosecution. However, most cases of violence against women, including rape, went unreported because women, particularly in rural areas, were ignorant of their rights or feared further abuse. Although rape is a crime, with a maximum penalty of life imprisonment, spousal rape is not cited specifically in the law, and police frequently were reluctant to intervene in what were considered domestic matters. There were no government programs to address domestic violence, and media attention to the abuse was limited. There were some facilities for abused women run by churches and other NGOs. In 2002, the civil procedure rules were revised to give greater protection to victims of domestic violence by giving magistrates authority to issue domestic violence protection orders. These changes were advocated by NGOs such as the National Council of Women and the Vanuatu Women's Center that also played an important role in educating the public about domestic violence.

In March, the head of the National Council of Women expressed concern about alleged abuse of a female finance department worker by a senior government official. According to press reports, the official publicly slapped and abused the employee because he wanted priority given to processing a payment request; the official denied the reports.

Prostitution is illegal and was not regarded as a serious problem. Although there is no law against sex tourism, none has been reported. Sexual harassment is not illegal and was a problem. During the year, the Commissioner of Police and a high ranking chief both made widely publicized statements against sexual harassment.

While women have equal rights under the law, they are only slowly emerging from a traditional culture characterized by male dominance, a general reluctance to educate women, and a widespread belief that women should devote themselves primarily to childbearing. In 2000, a disproportionate number of women's positions were abolished during downsizing of the public service

sector. In 2000, as part of the Government's reform program, policies were drafted to guide the Department of Home Affairs in protecting and furthering the rights of women; however, these have not been implemented. The majority of women entered into marriage through "bride-price payment," a practice that has encouraged men to view women as property. Women also were barred by tradition from land ownership. Many female leaders viewed village chiefs as major obstacles to social, political, and economic rights for women. Women interested in running for public office received encouragement and help from the NGO Vanuatu Women in Politics.

#### Children

Access to education was limited, and school attendance was not compulsory. Less than 35 percent of all children advanced beyond elementary school due to a shortage of schools and teachers beyond grade six. Boys tended to receive more education than girls. Although attendance rates were similar in the early primary grades (approximately 79 percent for boys and 78 percent for girls), fewer girls advanced to the higher grades. A significant portion of the population, perhaps as high as 50 percent, was functionally illiterate. Medical services were free, and there was a program of immunization; however, the Government had few resources for medical care, particularly in outlying provinces where there were no hospitals.

Child abuse was not believed to be extensive; however, the Government did little to combat the problem. NGOs and law enforcement agencies reported increased complaints of incest and rape of children in recent years but no statistics were available. Children generally were protected within the traditional extended family system. Members of the extended family, particularly paternal uncles, played an active role in a child's development. Virtually no children were homeless or abandoned.

#### Trafficking in Persons

The Constitution and the law do not prohibit specifically trafficking in persons; however, there were no reports that persons were trafficked to, from, or within the country.

#### Persons with Disabilities

There was no governmental or national policy on persons with disabilities and no legislation mandating access to buildings for them. There were no special programs to assist persons with disabilities. Their protection and care was left to the traditional extended family and to voluntary NGOs. Due to high rates of unemployment, there were few jobs available for persons with disabilities. Persons with mental illness generally did not receive specialized care; they usually were attended by members of their extended families.

#### National/Racial/Ethnic Minorities

Most of the population is made up of Melanesians. Small minorities of Chinese, Fijians, Vietnamese, Tongans, and Europeans generally were concentrated in two towns and on a few plantations. Most of the land belongs to indigenous tribes and cannot be sold, although it sometimes was leased to others. Within the limits of this system of land tenure, there generally were no reports of discrimination against ethnic minorities; however, under a law passed in 2003, only indigenous farmers can grow kava, a native herb, for export. There was no evidence of ethnic discrimination in the provision of the limited basic services that the Government provided.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides workers with the right to organize and join unions, and workers exercised this right in practice. Approximately 25,000 persons participated in the formal economy as wage earners. Combined union membership in the private and public sectors was approximately 1,000. The five existing trade unions are independent of the Government. They are grouped under an umbrella organization, the Vanuatu Council of Trade Unions (VCTU). All workers are permitted to join unions. The high percentage of the population still engaged in subsistence agriculture and fishing precluded extensive union activity. Unions require government permission to affiliate with international labor federations. The VCTU is a member of the International Confederation of Free Trade Unions.

##### b. The Right to Organize and Bargain Collectively

Unions exercise the right to organize and bargain collectively. They negotiate wages and conditions directly with management. If the two sides cannot agree, the matter is referred to a three member arbitration board appointed by the Minister of Home Affairs. The board consists of one representative from organized labor, one from management, and the senior magistrate of the Magistrate's Court. While a dispute is before the board, labor may not strike and management may not dismiss union employees. However, unions and management generally reached agreement on wages without arbitration. Complaints of anti union discrimination are referred to the Commissioner of Labor; however, none were reported during the year. While the law does not require union recognition, it prohibits anti-union discrimination once a union is recognized. The law prohibits retaliation for legal strikes. In the case of private-sector employees, complaints of violations would be referred to the Labor Department for

conciliation and arbitration. In the public sector, the Public Service Commission would handle complaints of violations. Unions are required by law to give 30 days' notice of intent to strike and to provide a list of the names of potential strikers.

There were no major strikes during the year.

There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits children under 12 years of age from working outside of family-owned agricultural production, where many children assisted their parents. The employment of children from 12 to 18 years of age was restricted by occupational category and conditions of labor, including employment in the shipping industry and nighttime employment. The Labor Department effectively enforced these laws.

e. Acceptable Conditions of Work

A legislated minimum wage was enforced effectively by the Labor Department. Since 1995, it has been approximately \$143 (16,000 vatu) per month for both urban and rural workers. The minimum wage did not provide a decent standard of living for an urban worker and family. However, most families were not dependent solely on wages for their livelihood, supplementing incomes through subsistence farming. Various laws regulated benefits such as sick leave, annual vacations, and other conditions of employment, such as a 44-hour maximum workweek that included at least one 24-hour rest period. The Employment Act, enforced by the Labor Department, includes provisions for safety standards. Workers have the right to remove themselves from dangerous work situations without jeopardy to their continued employment. However, the safety and health law was inadequate to protect workers engaged in logging, agriculture, construction, and manufacturing, and the single inspector attached to the Labor Department could not enforce the law fully.

Laws on working conditions and safety standards apply equally to foreign workers and citizens.